



Reprinted
February 23, 2007

SENATE BILL No. 412

DIGEST OF SB 412 (Updated February 22, 2007 4:42 pm - DI 87)

Citations Affected: IC 4-1; IC 36-2.

Synopsis: Social Security number disclosures. Allows a state agency to disclose a Social Security number of an individual to: (1) a person that a state, local, or federal agency has contracted with to perform the duties and responsibilities of the state, local, or federal agency; or (2) a person that the state agency has entered into a contract with if the disclosure is necessary to perform the contract and the contract contains adequate safeguards against disclosure. Allows an individual to provide consent to a state agency to release the individual's Social Security number: (1) by electronic transmission; and (2) by providing the consent to a person other than the state agency if the consent expressly authorizes the state agency to release the Social Security number. Allows a state agency to release an individual's Social Security number to a private attorney if: (1) the state agency has contracted the attorney creating an attorney-client relationship with the state agency; and (2) the disclosure is necessary for the private attorney to provide legal representation to the state agency. Specifies that the statement on a recorded instrument regarding redaction of Social Security numbers must be located at the conclusion of the instrument and below the name of the person who prepared the instrument.

Effective: Upon passage; July 1, 2007.

Hershman, Dillon, Zakas

January 11, 2007, read first time and referred to Committee on Judiciary.
February 8, 2007, amended, reported favorably — Do Pass.
February 22, 2007, read second time, amended, ordered engrossed.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 412

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-1-10-1.5 IS ADDED TO THE INDIANA CODE
2 AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 1.5 As used in this chapter, "person" means an**
4 **individual, a corporation, a limited liability company, a**
5 **partnership, or other legal entity.**
- 6 SECTION 2. IC 4-1-10-4, AS ADDED BY P.L.91-2005, SECTION
7 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
8 2007]: **Sec. 4. (a) Unless prohibited by state law, federal law, or court**
9 **order, the following apply:**
- 10 (1) A state agency may disclose the Social Security number of an
11 individual to:
- 12 (A) a state, local, or federal agency; **or**
13 (B) **a person that a state agency, local agency, or federal**
14 **agency has contracted with to perform the agency's duties**
15 **and responsibilities.**
- 16 (2) A state law enforcement agency may, for purposes of
17 furthering an investigation, disclose the Social Security number

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of an individual to any individual, state, local, or federal agency, or other legal entity.

(3) A state agency may disclose the Social Security number of an individual to a person that the state agency contracts with to provide goods or services to the state agency if:

(A) the disclosure is necessary for the contractor to perform the contractor's duties and responsibilities under the contract; and

(B) the contract includes adequate safeguards, including any safeguards required by state or federal law, to:

(i) prevent the unauthorized release of the Social Security numbers; and

(ii) require the notification of affected individuals in the event the Social Security number of an individual is improperly disclosed.

(b) A state agency's disclosure of the Social Security number of an individual in compliance with subsection (a) does not violate IC 5-14-3-4(a)(12).

SECTION 3. IC 4-1-10-5, AS AMENDED BY P.L.29-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A state agency may disclose the Social Security number of an individual if any of the following apply:

(1) The disclosure of the Social Security number is expressly required by state law, federal law, or a court order.

(2) The individual expressly consents in writing, **including by electronic transmission**, to the disclosure of the individual's Social Security number. **The individual may provide the consent:**

(A) directly to the state agency; or

(B) to a person other than the state agency, if the consent expressly authorizes the state agency to disclose the individual's Social Security number.

(3) The disclosure of the Social Security number is:

(A) made to comply with:

(i) the USA Patriot Act of 2001 (P.L. 107-56); or

(ii) Presidential Executive Order 13224; or

(B) to a commercial entity for the permissible uses set forth in the:

(i) Drivers Privacy Protection Act (18 U.S.C. 2721 et seq.);

(ii) Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

(iii) Financial Modernization Act of 1999 (15 U.S.C. 6801 et seq.);

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(iv) **Family Education Rights and Privacy Act (20 U.S.C. 1232g); or**

(v) **Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq.).**

(4) The disclosure of the Social Security number is for the purpose of administration of a state agency employee's or the state agency employee's dependent's health benefits.

(5) The disclosure of the Social Security number is for the purpose of administration of:

(A) a pension fund administered by the board of trustees of the public employees' retirement fund;

(B) the Indiana state teachers' retirement fund;

(C) a deferred compensation plan or defined contribution plan established under IC 5-10-1.1; or

(D) a pension plan established by the state police department under IC 10-12.

(6) The disclosure of the Social Security number is:

(A) to a private attorney that the state agency has contracted with creating an attorney-client relationship with the state agency to represent the interests of the state agency; and

(B) necessary for the private attorney to provide legal representation to the state agency.

(b) A state agency's disclosure of the Social Security number of an individual in compliance with subsection (a) does not violate IC 5-14-3-4(a)(12).

(c) This section may not be construed to permit a state agency to disclose any information in violation of any federal law.

SECTION 4. IC 36-2-7-10.1, AS AMENDED BY P.L.171-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) As used in this section, "bulk form" means:

(1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or

(3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership,

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a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

- (1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or
- (2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

- (1) Five cents (\$0.05) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.
- (2) Five cents (\$0.05) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving,

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and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section ~~10(c)~~ 10(d) of this chapter.

(l) This section does not apply to enhanced access under IC 5-14-3-3.

SECTION 5. IC 36-2-11-15, AS AMENDED BY P.L.171-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section does not apply to:

- (1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;
- (2) a judgment, order, or writ of a court;
- (3) a will or death certificate;
- (4) an instrument executed or acknowledged outside Indiana; or
- (5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

- (1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; and
- (2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with subsection (b)(1) if it contains a statement in the following form: "This instrument was prepared by (name).".

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form **at the conclusion of the instrument**

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1 **and below the statement required by subsection (b)(1):** "I affirm,
2 under the penalties for perjury, that I have taken reasonable care to
3 redact each Social Security number in this document, unless required
4 by law (name)".

5 **SECTION 6. An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Dillon be added as second author of Senate Bill 412.

HERSHMAN

 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 412, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 4, delete "requires" and insert **"includes"**.

Page 2, line 5, after "to" insert ":

(i)".

Page 2, line 6, delete "." and insert **"; and**

(ii) require the notification of affected individuals in the event the Social Security number of an individual is improperly disclosed."

and when so amended that said bill do pass.

(Reference is to SB 412 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 412 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-1-10-1.5 IS ADDED TO THE INDIANA CODE AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5 As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or other legal entity."

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Page 1, line 17, after "goods" insert "**or services**".

Renumber all SECTIONS consecutively.

(Reference is to SB 412 as printed February 9, 2007.)

HERSHMAN

SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Bill 412.

HERSHMAN

SENATE MOTION

Madam President: I move that Senate Bill 412 be amended to read as follows:

Page 3, after line 23, begin a new paragraph and insert:

"SECTION 3. IC 36-2-7-10.1, AS AMENDED BY P.L.171-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) As used in this section, "bulk form" means:

- (1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;
- (2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or
- (3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

- (1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or
- (2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing

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information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

- (1) Five cents (\$0.05) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.
- (2) Five cents (\$0.05) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

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(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section ~~10(c)~~ **10(d)** of this chapter.

(l) This section does not apply to enhanced access under IC 5-14-3-3.

SECTION 4. IC 36-2-11-15, AS AMENDED BY P.L.171-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section does not apply to:

- (1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;
- (2) a judgment, order, or writ of a court;
- (3) a will or death certificate;
- (4) an instrument executed or acknowledged outside Indiana; or
- (5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

- (1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; and
- (2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with subsection (b)(1) if it contains a statement in the following form: "This instrument was prepared by (name).".

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form **at the conclusion of the instrument and below the statement required by subsection (b)(1):** "I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (name)."

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SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to SB 412 as printed February 9, 2007.)

HERSHMAN

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